

REMARKS

To effect amendment of the specification, Applicants are submitting a substitute specification (including both a clean copy and a marked-up copy). In addition, Claims 1-39 have been canceled, and Claims 40-77 have been added. Applicants have previously paid filing fees in an amount sufficient to cover all of the claims that will be pending after entry of the foregoing claim amendments, and thus no additional filing fee is due in association with the submission of this Amendment. In view of the foregoing amendments, and the remarks that follow, favorable consideration is respectfully requested.

Interview Summary

Examiner Michael Vaughan telephoned the undersigned on July 7, 2008. The Examiner indicated that the documents associated with the present application in the PTO's PAIR system include an "NPL" document, and that he was not sure what the NPL document was supposed to be. Upon investigation, it was found that, during the process of nationalizing the PCT application into the present U.S. application, the PTO's PCT division made an error. In more detail, as part of the nationalization process, Applicants submitted a substitute specification containing the text and claims to be used for examination. (For example, the substitute specification is listed as item 2 on the Express Mail Certificate filed on January 11, 2005). PTO policy specifies that, where an applicant submits a substitute specification, the PTO must either (1) enter the substitute specification, or (2) notify the applicant of the non-entry of the substitute specification. (For example, see MPEP §714.20 and §608.01(q), and Form Paragraph 6.28.02). In the present situation, the PCT division did not send Applicants any notice indicating that the substitute specification had not been entered. Accordingly, in the absence of that required notice, the substitute specification automatically became the official specification and claims to be used during examination of the present application. It was Applicants' understanding that the substitute specification had been entered, and constituted the official specification and claims to be used for examination. In reality, however, the PCT division mishandled the substitute

specification. In particular, instead of properly treating it as the official specification and claims, the PCT division simply saved a copy of it in the PTO's PAIR system as an "NPL" document (which is not even available for access through the PAIR system), and thereafter completely ignored it. Instead of giving the Examiner a copy of the substitute specification to use for examination, the PCT division improperly gave the Examiner a copy of the text and claims of the PCT application.

After identifying the error made by the PCT division, the undersigned and the Examiner addressed how to deal with that error. Ultimately, the Examiner requested that Applicants submit an amendment directed to the text of the PCT application, adjusting the PCT text to bring it generally into conformity with the previously submitted substitute specification. Therefore, in the spirit of cooperation, Applicants are submitting this Preliminary Amendment in order to correct the error made by the PCT division.

Amendments to the Specification

To avoid further confusion, Applicants request that the Examiner ignore the previously-filed substitute specification (now an NPL document that is not currently available to the public through the PAIR system).

Pursuant to the provisions of 37 C.F.R. §1.121(b)(3), §1.125(b) and §1.125(c), Applicants are amending the specification of the present application by enclosing a second substitute specification, including both (1) a clean copy of the second substitute specification, and (2) a marked-up copy thereof having strikethrough and underlining that show all changes relative to the immediately prior version of the specification (i.e. the text of the PCT application). Please replace the current version of the specification with the enclosed substitute specification. The enclosed substitute specification does not include any new matter.

Amendments to the Claims

The foregoing amendments replace original Claims 1-39 with new Claims 40-77. New Claims 40-77 are effectively identical to the claims in the first substitute specification, except that they have been renumbered.

Conclusion

In view of the foregoing, further and favorable consideration of the present application is respectfully requested. If the Examiner believes that examination of the present application may be advanced in any way by a telephone conference, the Examiner is invited to telephone the undersigned attorney at 972-739-8647.

Although Applicants believe that no fee is due in association with the filing of this paper, the Commissioner is hereby authorized to charge any additional fee required by this paper, or to credit any overpayment, to Deposit Account No. 08-1394 of Haynes and Boone LLP.

Respectfully submitted,



T. Murray Smith
Registration No. 30,222
(972) 739-8647

Date: July 14, 2008

HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
Telephone: (972) 739-6900
Facsimile: (214) 200-0853
File: 36382.3

Enclosures: Substitute Specification
Marked-Up Copy of Substitute Specification

R-203236.1